

WILMERHALE

June 11, 2025

Brittany Amadi

BY ECF AND EMAIL

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The Honorable Katherine Polk Failla
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007
Failla_NYSDChambers@nysd.uscourts.gov

MEMO ENDORSED

Re: *Netflix, Inc. v. Fortress Investment Group LLC et al.*, No. 1:25-mc-00230-KPF

Dear Judge Failla,

Pursuant to the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, Rule 5.2(b) and 7.1(d), and the United States District Court, Southern District of New York's Sealed Records Filing Instructions ("Filing Instructions"), Netflix, Inc. ("Netflix") respectfully submits this letter requesting to file under seal Exs. A-E (the "Proposed Sealed Exhibits") and to file redacted portions of the Declaration of Brittany Amadi and its Reply in Support of its Motion to Compel Production of Documents Pursuant to Subpoenas.

"Although the right of public access to court records is firmly entrenched and well supported by policy and practical considerations, the right is not absolute." *In re Orion Pictures Corp.*, 21 F.3d 24, 27 (2d Cir. 1994). Third parties' privacy interests are a venerable common law exception to the presumption of access. *United States v. Amodeo*, 71 F.3d 1044, 1051 (2d Cir. 1995). This Court has routinely held that "[r]edaction may be appropriate to protect confidential information." *See, e.g., Fairstein v. Netflix, Inc.*, No. 20-cv-8042 (PKC), 2023 WL 6164293, at *1 (S.D.N.Y. Sept. 21, 2023).

Netflix seeks to file under seal the Proposed Sealed Exhibits, which have been designated as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" in the underlying litigation, *DivX, LLC v. Netflix, Inc.*, Civil Action No. 2:19-cv-1602-GW (DFMx) (C.D. Cal.) (the "California litigation"). In so designating, the parties that produced the designated documents affirmed that these documents contain information, the disclosure of which "would create a substantial risk of serious harm that could not be avoided by less restrictive means." *DivX, LLC v. Netflix, Inc.*, Civil Action No. 2:19-cv-1602-GW (DFMx) (C.D. Cal.), Dkt. 100 (Stipulated Protective Order) at 3. As such, Netflix moves to file under seal the Proposed Sealed Exhibits to maintain confidential business information of DivX, LLC, Fortress Investment Group LLC, DivX

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CF Investors LLC, and affiliated entities, in accordance with the Protective Order in the California action.

Netflix also seeks to redact those portions of the Amadi Declaration and Reply which cite to or discuss the Proposed Sealed Exhibits in a way that could reveal protected information. Netflix respectfully requests that this Court defer to the Stipulated Protective Order in the underlying litigation and seal the documents at issue here.

Sincerely,



Brittany B. Amadi

Application GRANTED.

The Clerk of Court is directed to maintain under seal docket entries 22 and 24 and to terminate the pending motion at docket entry 21.

Dated: June 13, 2025
New York, New York

SO ORDERED.



HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE